

## **R E M A R K S**

The present amendment is in response to the Official Action dated August 22, 2008, wherein the Examiner rejected pending claims 1-23, after reopening prosecution after the applicant had previously filed a Notice of Appeal and Appeal Brief. As part of reopening the prosecution, the Examiner has raised several new objections relative to an asserted indefiniteness relative to claims 13 and 23, and indirectly claim 14. The Examiner additionally recharacterized the rejection based upon alleged art, by reversing the order of the first two references being relied upon by the Examiner in support of the rejection, where the alleged admitted prior art is now being relied upon as the principal teaching and Raverdy et al., US Patent No. 6,957,217, is the secondary reference.

More specifically, the Examiner rejected claims 1, 6, 7, 10, 11, 15, 16 and 19-22 as being unpatentable over **alleged** admitted prior art (AAPA) , in view of Raverdy et al., US Patent No. 6,957,217; claims 2-5, 13, 14 and 23 as being unpatentable over AAPA and Raverdy et al., '217, in view of Wade et al., US Patent No. 5,552,776; claims 8, 9, 17 and 18 as being unpatentable over AAPA and Raverdy et al., '217, in view of Fushiki et al., US Patent No. 6,433,704; and claim 12 as being unpatentable over AAPA and Raverdy et al., '217, in view of Kruse et al., US Patent No. 6,684,279. However, contrary to the assertions of the Examiner, the claims are neither anticipated nor made obvious in view of the teachings of the references, either alone, or in combination, in so far as the references fail to make known or obvious each and every feature of the claims. Most notably, the combination of references fail to make known or obvious an associated user field identifying one or more users that have conditional access to user presence attribute information, as well as one or more associated access condition entries, which defines the conditions when the user presence attribute information is available to the corresponding one or more users.

As part of reopening prosecution the Examiner continues to rely upon alleged teachings in the background description of the present application, which the Examiner characterizes as admitted prior art, as making known the same. However, not everything the Examiner attempts to identify as admitted prior art can be fairly characterized as admitted prior art. Nor does the Examiner account for the contextual inconsistencies in attempting to relate the allegedly admitted prior art with the teachings, which can be found in the cited and relied upon references. While most recently, the Examiner has curtailed the cited portions that he attempts to rely upon

from the detailed description, which he alleges is admitted prior art, several claimed features are still unaccounted for.

The applicant acknowledges that presence attributes are presently used as a way to define, manage and convey a user's relationship relative to a communication network, the same being noted in the background description. However, the applicant does **not** suggest that an ability to define access conditions relative to the presence attributes exist in the prior art, **nor** does the applicant suggest that the access conditions are previously known to be associated with one or more users that may be attempting to obtain the user presence attributes. The Examiner is taking language in the background section out of context, and ignoring the fact that some of the background section is devoted to identifying deficiencies in the prior art, and what may be possible and desirable should a manner in which to overcome those deficiencies be developed.

As a result not only has the Examiner admitted that many of the claimed elements are neither taught nor suggested by the art references relied upon by the Examiner, but then inappropriately suggests that the features are identified by the applicant as being part of the prior art. As noted above, contrary to the Examiner's suggestion, the prior art as defined by the background of the invention does not teach or suggest an ability to define access conditions relative to the presence attributes, nor is an association of the access conditions with one or more users identified in a user field made known or obvious by the discussed prior art.

In view of the fact that the alleged prior art as described in the background of the art section of the present application fails to in fact attribute the acknowledged missing features from the references to the prior art, the combination of references and teachings relied upon by the Examiner fail to make known or obvious each and every feature of the claims. Merely reversing the references fails to correct the above noted deficiencies.

With respect to the objection to claims 13, 14 and 23 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, the applicant has amended claims 13 and 23 to more clearly provide an antecedent basis for the noted terms.

Correspondingly, the applicant would respectfully request that the Examiner reconsider the rejection of the claims.

Respectfully submitted,

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